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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,896	02/13/2002	Joy M. Campbell	P04890US1	6473
21186 7590 02/27/2007 SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A. P.O. BOX 2938 MINNEAPOLIS, MN 55402			EXAMINER BERTOGGIO, VALARIE E	
			ART UNIT 1632	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE 3 MONTHS			MAIL DATE 02/27/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/074,896

Applicant(s)

CAMPBELL ET AL.

Examiner

Valarie Bertoglio

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,6,11-14 and 17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,6,11-14 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on N/A is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicant's reply dated 11/27/2006 has been received. Claims 2-5,7-10,15,16 and 18-30 have been cancelled. Claims 1 and 14 have been amended. Claims 1,6,11-14 and 17 are pending and under consideration in the instant office action.

Claim Objections

Claim 6 is objected to because of the following informalities: Claim 1 reads "claim1" rather than "claim 1" at line 1. Appropriate correction is required.

Claim Rejections - 35 USC § 112-2nd paragraph

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

The rejection of claims 1 and 6 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention set forth at page 2 of the office action dated 08/24/2006 is withdrawn in light of Applicant's amendment to the claims.

Claim 14 remains rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant's arguments have been fully considered and are not persuasive and the rejection is maintained for reasons of record set forth at the paragraph bridging pages 2-3 of the office action dated 08/24/2006.

Applicant has amended claim 14 to read "administered at all stages if the life cycle of poultry" and provided a definition of "at" at page 4, paragraph 4 of the Remarks. However, this amendment is

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insufficient to overcome the rejection of record as it does not clarify the claim. It remains unclear if the phrase is intended to mean administration is continuous through all stages of the life cycle or that it is administered once during each life cycle of a poultry, or that there is one administration that can occur at any life cycle stage. The claim, as amended, continues to have multiple interpretations. It is unclear whether the claim is intended to read on administering at "each" stage or "any one stage" or "any combination of stages". Furthermore, the specification fails to clearly set forth what the stages of the life cycle of the poultry are such that one would know when to administer the plasma, i.e. each day of the life of the poultry, once at each "stage", or once at "any" stage. The specification does not define the stages. Thus, claim 14 remains unclear.

A new grounds of rejection necessitated by amendment is presented below.

Claims 1,6,11-14 and 17 are newly rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "said water supply" in line 3. There is insufficient antecedent basis for this limitation in the claim. Claims 6,11-14 and 17 depend from claim 1.

Double Patenting

The rejection of claims 1,6, 10-14 and 17 under the judicially created doctrine of obviousness-type double patenting is withdrawn in light of Applicant's arguments. While Adalsteinsson taught plasma as an antibody source and a nutritional supplement, the teachings pertaining to addition of a spray dried powder to drinks relate to that derived from egg. With respect to teachings relating specifically to plasma, Adalsteinsson taught that it is a source of purifying the antibody (see US 6,086,878 at col. 8, lines 60-65;

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see also Applicant's Remarks dated 10/31/2005 at page 9, paragraph 3), and does not teach spray drying the plasma and adding to a water supply of an animal.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The rejection of claims 1,6,10-14 and 17 under 35 U.S.C. 103(a) as being unpatentable over Weaver (US 6,004,576, 1999) in view of Adalsteinsson (US 6,086,878, effective filing date August 21, 1997) is withdrawn in light of Applicant's arguments. While Adalsteinsson taught plasma as an antibody source and a nutritional supplement, the teachings pertaining to addition of a spray dried powder to drinks relate to that derived from egg. With respect to teachings relating specifically to plasma, Adalsteinsson taught that it is a source of purifying the antibody (see US 6,086,878 at col. 8, lines 60-65; see also Applicant's Remarks dated 10/31/2005 at page 9, paragraph 3), and does not teach spray drying the plasma and adding to a water supply of an animal.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Valarie Bertoglio whose telephone number is (571) 272-0725. The examiner can normally be reached on Mon-Thurs 5:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ram Shukla can be reached on (571) 272-4517735. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).


Valarie Bertoglio
Examiner
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